

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

USDC SDNY  
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DATE FILED: 9/15/23

**SCOTT,**

**Petitioner,**

**-against-**

**JAMES,**

**Respondent.**

**20-cv-07809 (ALC)**

**ORDER**

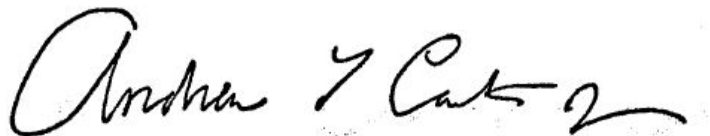
**ANDREW L. CARTER, JR., United States District Judge:**

As discussed in yesterday's conference, Petitioner Mr. Scott shall file a letter on or by **October 16, 2023** letting the Court know if he will either (1) return to state court to exhaust his excessive sentencing claim, or (2) amend his habeas petition to present only his exhausted claim and his other remaining claims. If Petitioner chooses to return to state court to exhaust the unexhausted excessive sentence claim, the Court will dismiss the Petition and all the remaining claims without prejudice. If, instead, the Petitioner amends his claims to exclude the unexhausted excessive sentencing claim, the Court will review the following pending claims.

Currently, these remaining claims are still pending: (1) Petitioner's ineffective assistance of counsel claim related to counsel's failure to object; (2) Petitioner's claim that his "fair trial was violated by his exclusion from the Court's email correspondence with the parties regarding *Molineux* evidence"; (3) Petitioner's claim that the "Court summarily denied motion when the People provided no response or facts for basis of arrest"; (4) Petitioner's claim that the "Court erred by not addressing [his] pro se CPL § 330.30 motion and by not appointing new counsel"; and (5) Petitioner's claim that "the People's failure to retain exhibits irreparably damaged [his] ability to appeal the conviction." *See* Petition, ECF No. 2 at 2.

**SO ORDERED.**

**Dated:** September 15, 2023  
New York, New York

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written in a cursive style.

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**ANDREW L. CARTER, JR.**  
United States District Judge